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AMERICAN SOCIAL SCIENCE ASSOCIATION.

LAW AS AN ELEMENT OF SOCIAL SCIENCE:

A

PAPER

READ AT THE

FOURTH ANNUAL MEETING,

BOSTON, OCTOBER 14TH, 1868,

BY

HON. EMORY WASHBURN, LL.D.,

PROFESSOR OF LAW IN HARVARD UNIVERSITY.

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LAW AS AN ELEMENT OF SOCIAL SCIENCE.

THE subject upon which I am now to tax your indulgence, is that of LAW AS AN ELEMENT OF SOCIAL SCIENCE, and the relations which it holds to that science as a broad and comprehensive system of public economy and wise beneficence. Nor can I hope to claim your attention without showing, as I shall attempt to do, the practical application of the subject to interests which are personal to us all, as members of the family, the neighborhood and the State.

In order to do this however, it is necessary to understand what is meant by *Law* as well as what is embraced under the term *Social Science*, that the propositions, with which I am to deal, may be the more readily intelligible.

In popular phrase, Law is, itself, a Science, made up of technical rules which supply the forms and processes by which private controversies are determined, and the peace of a community is maintained. For this purpose it has its tribunals of justice and its officers by whom it is administered between the citizen and the State, and one citizen and another. These outward forms by which law manifests itself, supply the conception which most men entertain of its properties and its functions; and it is only by study and reflection, that the mind is able to comprehend how essentially it enters into the organization of Society itself. To understand its true relations, we must not content ourselves with what meets the eye of a casual observer — the machinery by which it works out its problems, and the agencies by which it enforces its judgments. Judges and lawyers and courts of justice are but the outward representatives of a principle whose subtle agency reaches the conduct, and influences the thoughts and opinions of every intelligent being, and at the same time inspires that

cease'ess guardianship that watches over the minutest interests of the homeless stranger and the helpless infant. It is a principle which binds society together by an inseparable bond, while it penetrates into all its relations and takes care of all its interests. When therefore I come to speak of law in its less obvious connexions, I hope to show, by a reference to the illustrations of common life, how much society owes to it for its domestic peace, and the harmony with which its affairs move on in spite of all the elements of discord which are abroad in the world.

If I attempt at the same time to define what is meant by Social Science, of which law is assumed to form a constituent element, the difficulty which meets me is in its breadth and extent, which renders it impossible to reduce it to any one form of expression. Writers have attempted to define it by telling us in what it consists. We are told that "Moral Duties, Exchanges and Laws are the three subjects of Social Science," and that "Ethics, Politics, Economy and Jurisprudence" form its three sub-divisions, (Heron 5.) But the terms used to limit and define the meaning of the principal term, are in themselves necessarily so vague as to require in turn to be limited and defined, in order to give any thing like the exactness which is implied in the term — Science. Nor do I know any better mode of doing this, than by quoting the language of the National Association of Great Britain, from which our own is borrowed. Its objects as stated in the report of its transactions, are these: "The Association is established to aid the development of Social Science, to spread a knowledge of the principles of jurisprudence and to guide the public mind to the best practical means of promoting the advancement of education, the prevention and suppression of crime, the reformation of criminals, the adoption of sanitary regulations, and the diffusion of sound principles on all questions of social economy, trade and international law," "And to afford a common ground for the interchange of trustworthy information upon the great social problems of the day." I shall not, therefore, attempt to separate or classify the parts of a Science whose field is so broad, and whose mission it is to improve the condition, and advance the prosperity of Society in every form, whether it be the household or the State. Whatever tends

to do this may be regarded as an element of a system which has been said, with propriety, "to be of no country," and to "belong to the entire world."

Regarded in this light, Jurisprudence becomes not only an essential element of Social Science, but lies at the foundation of all Social life. It is to Society what that subtle principle, the *vis vitæ* is in man as a living organism, without which the material parts of the human frame would be as useless as the broken pipes of the organ, through which no harmony can be breathed and no sound given back to the touch of the player.

But here again it is necessary to define further what that something is, which we call Law. It is not necessarily embodied into a code, or a system of written rules. No matter how perfect or complete may be the work of the law giver, every State has its laws which are yet to be written. There is a principle of growth and development in the thoughts and opinions which prevail in bodies politic, and which enter into and form the basis of their laws, which keeps pace with the changes in its condition and the wants of the people of which they are composed, whether these arise in the progress of business, social order or civilization. And these are often, practically, greatly in advance of what has already been enunciated as laws, by those who make or declare what are the received doctrines of a nation's jurisprudence. We are accustomed to associate with law the expression of some mandate, or the formal declaration of the will of a sovereign or governing power in the State, and to ascribe its principal force and obligation to the sanctions with which it is clothed by the government, from which it emanates. But the principal of obedience to law lies altogether deeper than the penalties which civil government imposes for its violation. We unconsciously or implicitly obey the same idea of regulation, a restraint which enters into the best code that human skill ever devised. And this is true in respect to matters over which no recognized tribunal has jurisdiction or control. Not only is it true as illustrated in history, but it is true in the common every day affairs of life, and in things, too, which, at first sight, have hardly the semblance of coming under the cognizance of civil government. Nothing is too high or too low to be out of the

pale of the law. At no time, for instance, in the history of the English Crown, has its prerogative been so absolute as during the reign of Henry VIII. He affected despotic power, and among the language addressed by him to his Arch Bishop in connexion with his purpose of sacrificing his lawful Queen to the indulgence of an unlawful passion, he uses this, as we find it quoted in Froude, "Albeit, we being your King and Sovereign, do recognize no superior on earth but only God, and not being subject to the laws of any earthly creation." And yet he was compassing heaven and earth, at that very moment, to find some way to be freed from the irksome restraints of the very law that he affected to despise, and only succeeded at last by a revolutionary act of counter legislation. But we need not go such a distance either, in time or place, to find illustrations of the universality of that instinct which answers, in private life, to the binding obligations of law in the broader civil relations of the State. We see men acting upon it whenever they come together, whether it be for business or for pleasure. And true to the same instinct, the sports of childhood are regulated by rules which no one thinks of disobeying. The play ground is a miniature republic with its laws and its sanctions, which are none the less binding that they are written in no statute book.

It seems to be a necessity of our natures, and half a dozen men cast by shipwreck upon a desert island, could not tolerate this forced association for a day, without a mutual recognition of the right of each other, and a protection of the weak from the aggressions of the strong. And in their eagerness to reach justice, people at times are too impatient to wait for its due course of administration, but by their rashness make martyrs of their victims, instead of suffering their example to be a solemn testimony, that tho' "the mill of the Gods grinds slow," it never fails to do its work. Sometimes this idea of the obligation of law manifests itself in voluntary agreement, defining what duties one owes to another. In other circumstances, custom gives the rule, and fashion becomes the arbiter of what one is content to observe. Every business partnership has its code of rules for the regulation of its domestic concerns; and every well regulated family has its laws to which its members are taught to submit. The thousand

and one corporations in the Commonwealth have each its by-laws, and trade builds up its own customs, to which the courts themselves defer in settling the controversies which grow up in business communities. Nor am I in these illustrations, transcending the province of law as defined by writers upon what is embraced within its proper scope.

Blackstone defines law as "a rule of action dictated by some superior being," which he applies to "human action and conduct." But there may be what he calls "a prescribed rule of civil conduct," answering to this idea of law, without its having been first promulgated by a formal declaration or decree of a sovereign law giver. Nine-tenths of the laws of England come within what is called the *common law*, and never had a place upon her statute book. It was originally unwritten — the growth and product of a common experience on the part of the people of what their circumstances and condition required, — a law made by the people for themselves, and promulgated by the constituted expounders of what the common law is. So it is in our own country. The rights of person and property, the forms of business, the remedies for wrongs, and the changing of hands of millions of dollars every year are regulated by known and well defined rules, not one of which have any other basis than as being a part of the unwritten law of the land. And yet, as the will and prevailing sentiment of a people, it is no forced construction to say that these laws were and are "dictated by a superior being," — the people themselves — the ultimate source of sovereignty and power in every State.

A rule is none the less a law because we cannot trace it directly to the action of a superior power. Many a dogma receives implicit obedience, whose chief claim to such observance rests upon the common consent of those who obey it. Nor is it essential that it should carry with it pecuniary loss or personal suffering for its violation. There are more potent sanctions than these against a breach of Social law. There is the less easily tolerated sting of wounded pride; mortified self-love, and the loss of social caste; or, what is more fearful still, the world's dread laugh which, upon sensitive minds, carries with it more instinctive terror than any apprehension of personal loss or harm. Many a brave man who has

marched up to the cannon's mouth with an unfaltering step, has quailed before the array of a dinner table, or the gay dresses of a drawing room, and cowed before the sneer of the brainless fop who held, for the moment, the arbitrament of fashion. We do a thousand things because we are afraid to go counter to the laws which fashion has prescribed, and play the fool at times rather than risk the consequence of sinning against etiquette. Men even meet each other in deadly conflict, in open violation of the law of the State, because as gentlemen they find themselves amenable to a higher code of honor. There is a homely adage that "one may as well be out of the world as out of the fashion." And we witness the force of this in the remarkable freaks which fashion plays with dress and style, and the outward observances of what is called society. A fashionable lady passes through as many, and almost as frequent changes in the magnitude of her expanse in dress, the length of her skirts, and the palpable or impalpable form and structure of her bonnet, as the moon in its orbit from the slim crescent to the gibbous rotundity of a full sized orb. And for each of these there is a sanction, in the dread of being singular, more potent than that by which civil law is ordinarily enforced or its violation punished. Nor need we be at a loss to account for this, when we remember the universal tendency there is in men to be influenced by the will and opinions of others around them. We can hardly measure the power of a single well defined thought. No matter how it originates, when a thought once gets possession of the mind, whether it is that of the individual or the public, it has, for the time being, a power over the conduct of the individual and the policy of the State, as imperative as a decree emanating from sovereignty itself.

The thought that away beyond the limits, where the sun goes down, there lay hid a continent which might be laid open to the human gaze, was as effectual to urge on Columbus to encounter the perils of an untried ocean, as if it had been a sentence of banishment that sent him on his trackless way beyond the limits of human discovery. The mad thought of redeeming the holy sepulchre from the profane foot of the infidel, had been working in the heart and brain of Europe before the voice of Peter the Hermit had been raised in the first crusade; and it held a controlling influence over the policy of her

nation's, long after the fanaticism of the hour had been quenched in the overthrow of the first of the wild schemes which he inaugurated.

While on the one hand, thought, whether of the public or the individual, may grow in depth and expansion, till it gains the force of law; on the other, Law, when it has once been promulgated and established by the representative power in a State, becomes itself a source and element of a people's thought, giving to it a strength and consistency which come from its being a part of the traditional respect for authority, in which the men of every State are educated.

There is, however, this condition, as to force and efficiency in a law, that it does not run counter to the settled current of thought among those who are to be its subjects. Every volume of statutes might supply us with lessons to show the impotence of mere legislation, if adverse to the sentiment of a people. How many a law framed with all the care, and enunciated with all the imposing circumstance of the most approved constitutional enactment, has lost its vitality, and now stands as a mere dead record of an obsolete thought, because the age, in its progress, has got in advance of the opinions in which it had its origin. Such statutes are like those which once signalized our records, scandalizing all professors of the black art, and pronouncing the penalty of death upon such as were guilty of "conguration, witchcraft and dealing with evil and wicked spirits." But I repeat, dependent as law is upon the tone of public thought for its efficiency, it often lends in return, efficiency to public thought itself. A nation's code of laws is generally a fair reflex of the average collective opinions of its citizens. And there is truth in the adage that "a nation is never better than its laws," because so few think out their own thoughts, or attempt to be wiser than what they find recorded as the will and judgment of their rulers. They content themselves to come up to the standard of right and duty which they find prescribed for the people as a whole. And in this way, a statute is, ordinarily, the prevailing thought of a people upon a given subject, crystallized into a palpable and sensible form, and becomes in time a visible representation of the wisdom of the past. And in this way too, the judgment and opinion of one generation becomes a part of the inherited thought of those that come after it. The people of India have for more than twenty-

five centuries, remained substantially unchanged in every thing that goes to form a nation's characteristics. Separated as they have been into classes by an impassable barrier of caste, the impassive slaves of a degrading superstition, their natures dwarfed and their energies crushed beneath the dead organism under which they had lain; they are the victims of a code which, under the name of the laws of Menu, has for ages, stamped itself upon the character of each successive generation of the millions that compose that people. But we have, perhaps, a still more familiar example of such an influence, in the history of the people whom Moses led out into the wilderness from Egyptian bondage. What I wish to illustrate is the inseparable connexion there is between the social and political condition of a people, and the character of their laws; and to show, moreover, that the more fixed and established these become, the more deeply they impress their character upon that of the people who obey them. And I do this with the ultimate view of thereby showing the importance to every nation of maintaining a wise system of jurisprudence beyond the bearing it may have upon the passing interests of the hour.

A recent French writer (Mons. Carpentier,) has presented a contrast between the condition of the Jews and of some of the most polished pagan nations of antiquity, in the matter of domestic slavery, and of the power of life and death which masters, fathers, and in some cases, husbands, might exercise over their slaves, their children and their wives. Many would be surprised to know what is a familiar fact to every one conversant with the Roman law, that for a long period of time, in a city eminent for arts and civilization, the wife was the property of the husband, the father might sell his child into slavery; and that one of the famous XII tables of the Roman law was in these words, "Let a father have the power of life and death over his legitimate children, and let him sell them if he pleases." Nor was child murder punishable as such, until christianity had become the national religion under Constantine, in the fourth century of the Christian Era.

An eloquent writer recently, in describing the power of a Roman father, thus speaks of its character and extent: "The law in its turn

clothed him at home with her own majesty. Seated upon his domestic throne or tribunal, he exercises without appeal, and beyond even the veto of the tribune, a despotic authority in his family. He has the power of life and death over his wife, his child, his slave, his debtor. They are his money." "As for his slave he may be cut up to feed the fish in his ponds." What then may we not believe, was the condition in these respects of the barbarous Eastern nations by whom the Israelites had been surrounded while in bondage and on their passage to their new homes beyond the Jordan, until Moses began his work of national reform. Our purpose is not so much with what he accomplished, as with how he did it. He had a stubborn, as well as a barbarous race to deal with. He undertook to root out some of their most inveterate habits, and to a recurrence of which they were constantly tempted by the example of the neighboring tribes and nations. They had an almost invincible propensity to idolatry, and were ready at times to offer even their children to strange gods. His mission was to civilize and reduce them to habits of decency, cleanliness, and a regard for the sanctity of human life. He soon found that such radical changes as these in the habits and opinions of such a people, was a slow process. It was to little account in the life of a nation, that a reformer had come among them, whose commission was attested by the thunder and the earthquake. The generation to whom these were addressed, was a brief one. The memory of his utterances was frial and uncertain. And if he would make a deep and lasting impression upon the hearts and habits of thought of such a people, he must put his precepts into a form which would be palpable to their senses. And he did it in the tables of a written law, to be read and repeated before them all; to be associated with the earliest impressions of childhood, and to be made a test of nationality as well as a standard of moral and social duties. He made his code to this end, entire and complete, with a solemn charge that what thing so ever he had commanded them, they should observe to do it, and should not add thereto nor diminish from it; and he enforced the injunctions of obedience to those commands by the sanction of threatened national calamities. His code enforced the worship of One Supreme Being, the sacredness and inviolability of

human life, except for crime, and the duties and relations of social and domestic life; the effect of which, wherever observed, has been to elevate and refine a people.

This was a part of that law which our Saviour came to fulfil and not to destroy. And it was, and has been, I repeat, an illustration of the power of a people's law to give the force of sentiment to their thought, and of instinct to their moral convictions.

It is by such and similar processes that any law may be made the means and instrumentality of advancing or retarding a nation's civilization. And it is, for this reason, that the character of a people's laws becomes a test and criterion of their own character. In the universal disposition in a community to adopt whatever opinion prevails there on the score of authority, men rarely stop to scrutinize the grounds upon which it rests, or question the results to which it leads. The penal laws of a State, in this way, become the prevailing standard of moral duty among its citizens, and men are content to act up to that, however short it may be of the requirements of a refined and educated conscience. And this may account for the memorable failures in the measures of social policy, where wise rulers and earnest reformers have undertaken to carry out schemes of beneficence and improvement, which found no root in the national life, because they were too much in advance of what the masses understood or desired. And yet the world does make progress in thought, culture and refinement, as well as in the arts of invention and the comforts and luxuries of life. Some one has said that "when Pericles flourished in the bright and palmy days of civilization in Athens, Germany and France were inhabited by tribes hardly in advance of the civilization of the tribes of New Zealand." Nor is the truth of what I have been trying to illustrate, any the less obvious, though the cradle of the law and the birth-place of civilization in what is now Christian Crete, is being borne down beneath a yoke of despotism as cruel and barbarous as that against which the Almighty led forth his favorite people, when he redeemed the land of promise from the worshippers of strange gods. It is not, indeed, to the law alone that we may ascribe the advance and progress of nations. Commerce and learning and the arts have been alike busy in working

out the revolutions which the world has witnessed. But commerce and the arts have in their turn owed their power and success, in no small measure, to the fostering care which better and wiser forms of law have extended to them. "I cannot but imagine," says an English Jurist, writing an hundred years ago, "that the inhabitants of this country are in the 18th century, infinitely more virtuous than they were in the 13th, and that the improvements of the mind and regard for social duties have gone hand in hand with the increase of learning and commerce." (Barring Stat. 137.)

Nor will this remark lose any of its force when we come to apply it to the 19th century, and our own favored land. Civilization has kept pace in a great measure with developments in science and discoveries in the useful arts. And has shared in that free play of thought, which has sprung from its emancipation from the slavery of ignorance and ancient prejudice. Mr. Buckle, in speaking of this progress, tells us that "the vigor of public opinion is unaffected by the laws of mortality. It does not flourish to-day and decline to-morrow. And so far from depending upon the lives of individual men, it is governed by large general causes, which, from their comprehensiveness, are in short periods scarcely seen, but on a comparison of long periods, are found to out-weigh all other considerations." And, although we may not be ready to adopt the conclusions to which his reasoning leads him, there is great force in the manner in which he has expanded this thought, in what he says of the power of kings and rulers compared with that of the untitled masses. "The history of every civilized country," says he, "is the history of its intellectual development, which kings, statesmen and legislators are more likely to retard than to hasten, because however great their power may be, they are, at best, the accidental and insufficient representatives of the spirit of their time; and because so far from being able to regulate the movement of the national mind, they themselves form the smallest part of it, and in a general view of the progress of men, are only to be regarded as the puppets who strut and fret their hour upon the little stage, while beyond them and on every side of them, are forming opinions and principles which they can scarcely perceive, but by which alone the whole course of human affairs is ultimately governed." (1 Buckle, 354.)

But I am in danger of exhausting my hour, in following the trains of thought which open at every step as we advance in the subject before us, without reaching what ought to be of prominent importance, the practical bearing and application of this relation of law to Social Science.

If law is another name for a form of public thought, and borrows its force and character from the tone and color of sentiment which prevails in a community, giving aid and progress to the culture and refinement of a people; if, in return, a people are influenced and controlled in matters of opinion by the laws under which they live; if the morality of a nation is affected by the character of its penal enactments; and in addition to all these, the several departments of Social Science are themselves more or less dependent upon the forms and administration of government and law. There is little danger of exaggerating the importance of inquiring how and by what means the jurisprudence of a people can be advanced, and at the same time, improved. Law becomes, in this way, a part of Social Science itself, because it enters into every thing which relates to the social well being of every individual of which a community is composed. It renders Social Science another aid by providing the means and instrumentalities by which it works out the problems with which it engages. It supplies Education with its schools, Charity with its hospitals, Reform with its sanctions, and Economy with its machinery of business and its processes for enforcing and sustaining private credit. It lends a hand to the poor, and cheers on the down-cast and the unfortunate. It is ever in advance of the ignorance that keeps back a nation's progress, and gives new power to a nation's productive energy and skill, by teaching to the laborer the laws of health; while it throws around the humblest home of the poor man, the charm of order, cleanliness and comfort. It gives, moreover, consistency and stability to every well-grounded scheme, whether of charity or health, or moral culture, which benevolence can devise, or the better feelings of our nature set in motion.

I understand the force of the strong terms in which I have spoken of the functions and offices of the law, in its connexion with those of

Social Science; and I have only to take down a volume of our own statutes, to point out what legislation has already accomplished, imperfect as has, at times, been the knowledge on which it was founded. Or I might ask you to take up the record of what the Association for Social Science have done, and are doing in England, illustrated as it is by the names as well as the learning and research and thought of many of her ablest jurists. I could, in this way, show that the cause in which we are engaged, is neither new nor strange, nor impracticable. It has work for all to do who are willing to forego the selfish profits of the hour, and to look abroad into the social condition of the neighborhood or town or country with which they are united by a thousand ties.

Do you ask me in what this work consists? where we are to look for it? or when we are to begin? I answer, we can hardly go amiss. "The Greeks are at our own door." We cannot look out of our own windows or traverse our own streets, without seeing and meeting objects of Social Science. If I have not misconceived the importance of good laws, or the source from which all law emanates, there is a mighty work to be done here and everywhere, to educate the people, to give direction and tone to public thought, to check the waywardness of passion, and create in the public heart a sentiment of national honor as well as love of country. And this is not to be done fitfully or for a day, but, in the rapid succession of generations, to be repeated every day and for all time to come. And it is to be done by what we write, and say and do. Every man may set a wise example, and in that way influence others, though his voice is never heard at the hustings or at the corners of the streets. It is not necessary that a man should be a candidate for the presidency in order to do better than he speaks. The work calls for men earnest in action, as well as in thought. And in no field has woman a wider and more ample scope for the exercise of those qualities and attributes by which she makes her power felt, than that in which this Association professes to be engaged.

Let us see, for a moment, what we have before us to do here in favored, prosperous Massachusetts, with all her institutions of learning, charity, health and christian benevolence. We have two hundred

and sixty-one thousand children, between the ages of five and fifteen, to educate; and of these, more than twenty-seven out of every hundred attending no school; and, in this city of schools, seven thousand in the year 1867, belonging to this number. More than ten thousand of her population are supported as paupers, out of the industry and thrift of the others. While thousands of grog shops are busy in multiplying inmates for our alms-houses and prisons. In 1866, more than fifteen hundred such were openly doing this in this city alone. Of the foundling children sent to one of our alms-houses in 1864, seven out of ten died in a single year. More than ten thousand persons charged with crime, were committed to the county and city prisons. While the number not yet steeped in guilt, who were inmates the last year of the Reformatories at Lancaster, Westboro', The School Ships and Boston House of Reformation, exceeded fifteen hundred. And these out of a population of only a million and a half, distinguished for wealth, intelligence and general culture. To go no further into detail, is there not enough in these statistics to indicate the vastness of the work for Social Science and reform all over this wide continent? Was there not an obvious fitness that this Association should date from a call issuing from the Board of Charities of this Commonwealth?

The aid which this work may derive from that instinctive principle of reverence and respect for law, is among the strongest reasons why laws should be wisely framed and implicitly obeyed. The open violation or disregard of one law, if done with impunity, leads to a violation of others, and in the end demoralises the sense of the public. Respect for law in the public mind, is what a man's moral sense is in regulating his conduct and character. Indulgence in one vice, weakens the restraint in the hour of temptation, of virtuous resolution and obligation. If a law against rum selling is openly violated without censure, that against cheating and fraudulent dealing loses its sanction. Political lying and trick, to carry a party measure, or secure a party election, are followed by peculation and defalcation in the agents of banks and railroads, in the whiskey ring and the holders of public moneys. The South followed the lead of politicians in breaking through the obligations of the constitution and the law, and now what

a spectacle of lawless violence and insecurity of property and life does she exhibit to the world? And where are we to stop here at the North, if we listen for a moment to that syren song of repudiation, and save thereby a few dollars in money, at the expense of national honor. What is to become of the law of private contracts? What is to keep up that high toned sentiment which marks the gentleman and the man of honor, whereby his word is as good as his bond? If Social Science can do no more, let it teach national honor and the law on which private and public honor rests.

But let us not be misled in regard to the proper sphere and duties of such an Association. It is not their purpose to provide the means by which the hungry are to be fed, or the naked clothed, to open schools for the ignorant, or to minister to the sick and the infirm by building hospitals, or watching by the bed-side of the friendless and the outcast. These are the work of other but kindred associations. The object at which this aims, is to study out and remove the *causes* of poverty, to dry up, if it may be, the *sources* of crime, and show how the ignorant may be taught, the idle employed, a knowledge and taste for the comforts and decencies of life diffused, a self-respect created by the cultivation of habits of cleanliness, and the seeds of pestilence and disease eradicated from the lanes and alleys of our cities, and the productive industry of the country spared the waste of life and health, which rob it of so much of the very element of power on which it depends for its success. If it were to do no more than to mature a feasible plan by which the sons of toil and their families could escape from the pent up dwellings in our narrow and sunless streets, into the pure and blessed light and air of the country, with the surrounding of comfort and neatness in their own homes, it would be a service to the cause of humanity, which would place it as an Association, among the first of the benevolent enterprises of a benevolent age.

To do all this, or any considerable portion of it, might, indeed, seem to be a vain and hopeless effort on the part of any individual, or of any single association of individuals. But the friends of these reforms have this to encourage them in their work, that even the agency of a single mind becomes, if well directed, a self-creating

power, which gathers strength with every step it takes. Other and similar associations may be confidently looked for in other sections of our land, till Social Science shall no longer be an abstraction; till its laws shall be studied by the statesman and politician as well as the philanthropist, and its purposes find a response in the intelligent good-will of the people. To do this, will take time and effort. It will require concert and co-operation. The rich man must give of his abundance, and the thinking man of the treasure of his best thoughts. Nor can I see any more direct or effectual means of carrying forward these reforms, than is offered in the instrumentality of the law itself. Let us have wise and honest law-givers, upright, learned and independent law interpreters, and bold and fearless law administrators; and is it too much to believe that it would tell upon the character and opinions and social policy of the nation? These are something upon which the people can act with a power and effect which all may feel. And might we not hope, in that way, for a return of those days when office was associated with the idea of virtue and intelligence and merit, instead of being a pitiful prize for men to play for at the game of politics? Might we not hope that the lobby and the ring might no longer throw an odour of dead and decaying manliness around our halls of Congress and legislation? Is it not time for the country to awake to its true condition, and the perils that hang over it? There is no want of individual intelligence, integrity or high purpose in the land. We have daily examples of these on every side. But it is, that in the rapid multiplication of our people, the haste that every one is in to get rich, the sudden changes through which society and business are passing, we cease to be startled at anything as new or strange, and hardly stop to look at means of winning money or office, provided the end be crowned with success. Nor is it easy to reach and correct this growing evil. Politics is too full of trick, to undertake itself a crusade against a depraved public sentiment. And the pulpit, even, has enough to do in taking care of its own theology and making war upon vice and sin, without going down to the hustings or the "irregularities" in State street. The remedy in a free State, is to be sought in the intelligence and moral sense, that go to make up the average sentiment and

opinion of the people. These it is, that are to be educated and purified, and made to bear upon our laws and the selection of our law-givers. The country, in other words, needs and must have an "awakening" in its moral and political thought — or something which answers to a temperance reform among the people when men give up unhealthy stimulants and habits that do violence to reason, for a healthier regimen and a less excited course of life. We have had so much of late, to stir up and agitate the public mind, that whoever seeks to reach it for purposes of reform, by cool and dispassionate appeals to reason, finds himself as powerless as if he were addressing the ear of a deaf man. To talk of temperance with effect, one must make use of intemperate language. The whole country, north and south, has been moved to its very centre with the passionate discussions on slavery, and for five years every town and village of the loyal States have been stirred to feelings of irrepressible indignation, which can hardly find adequate expression in words, at the outrages of a causeless rebellion, and the atrocities of civil war. This intensity of public feeling and popular emotion, which have thus been awakened, has almost rendered it necessary to indulge in strong epithets, exaggerated statement, and stirring and exciting appeals, if one would attack a popular vice, or arouse the people to political action. And the consequence is that not a few of our leaders are the men who are willing to make use of such instrumentalities, instead of the cool, and calm, and considerate moralists and statesmen, who think and act upon the broad basis of what, in the long run, is the best, and highest and wisest policy for a people. In its influence, this habit of the public mind reaches beyond the excitement of the hour. Our government is ultimately controlled in its administration by the force of the average thought of the people. And a wild extravagant policy in the conduct of its affairs, can no more be a safe one, because it is popular than it would be if the power were in a single hand. And it matters little whether the passion that prompts to this policy, be that of "the Macedonian madman or the Swede," or of fifty thousand electors led away by the sophistry or the party cant of demagogues in the caucus.

Is there not then something here for Social Science to do? Is it not time that with all our sects and parties, we should have one

organization which is above and outside of party, and sect too, whose purpose should be to make men wiser, better and happier?

All I have said, or can say, can only claim to be hints for your consideration and reflection. My time, as well as your indulgence are, I fear, too nearly exhausted to allow me to enter more into detail, upon the means by which these ends are to be attained. If the theory upon which our government rests is well founded, that the people can and ultimately do dictate what shall be the policy and laws of a State, the work which is to be done here, is to begin with the people themselves. It is to teach them the laws of moral and political science, in order to supply them with some better light to guide them, than the fitful blase of party excitement, or the will-o'-the-wisp fancies of visionary reformers. What they want is facts and fair reasoning, and not fanciful theories or confident assertions. Natural science makes progress only as fast as it settles its facts. And the same must be true with moral science. It is the business of those who would guide public thought in matters of economy or charity, education, or criminal reform, first to master, for themselves, the facts upon which their own opinions rest, and then to lay them before the minds of the masses who are to practically apply them. The public are pretty sure, in the end, to detect fallacies in reasoning, if they are in possession of the premises upon which it is founded. Let this be done calmly, dispassionately, and persistently, and it is the surest way of counteracting the wild schemes of reform and phases of partisan policy which mislead honest minds, and keep the people in a ferment.

It may be opposed to this notion of working upon the public mind, that to do it effectually we must resort to the same extravagance in the means which we make use of to check or divert the current of popular feelings which gives this current, at first, its momentum and power, that is, force against force, extravagance opposed to extravagance. But comparing small things with great, let us remember, that while the Founder of our faith and his followers were quietly and unpretentiously uttering by the wayside and in the streets of the cities of the Empire, the simple but sublime truths of a new dispensation, the halls of the Cæsars were ringing with the sounds of imperial revelry; and of the busy throngs that crowded her streets, only here

and there one turned aside from the eager pursuit of pleasure or business to listen to its messages. Every thing went on as before, and the dream was unbroken that such was to be the Rome of future admiring ages. But it was the truth alone that carried with it the vigor of immortality; and the stranger now pauses in curious wonder to spell out upon some broken column, or crumbling monument, dug up out of the ruins of the eternal city, the fading initials of some forgotten Cæsar. The true power of any sentiment is not to be judged of by its comparison with the factitious excitement of the passing hour. We may test it in the light of more than one of the phases of thought through which the country has passed in the last half dozen years. Let us take one through which it is now passing. For years the growing pride of one section of our country was in her slavery. That, thank God, is constitutionally dead now. But the inquiry is, what is to supply its place in the public thought of that section? It is one thing, to preach submission, and a far different one to point out how to restore the South to her accustomed prosperity, and win her back to the Union and her true nationality. The calm and dispassionate thinkers upon this subject know, that this can only be done by a *wiser organization of labor*, by which labor shall be made honorable, by the laborer being educated and elevated to the condition of equal rights, and the reign of law be restored to that distracted region. To this end, the South is to be made to see and understand how it is that this has been done at the North, and what its legitimate fruits have been. One fact is worth more, to this end, than a dozen tirades against a defunct institution. The work, in the end, is to be done by opposing facts like these to the false pride, the foolish passion and the perverse ignorance of social laws of a Bourbon-like oligarchy, which forgets nothing old and learns nothing new. It is to be a work of time. But in the rapid succession of new generations, old prejudices may die out, and kindlier feelings take their place, if the people there can, by interchange of views with the other states, be disabused of the notions which their political leaders have so sedulously spread among them. Or, let us come nearer home and see whether something may not be done to advantage here, in respect to the social and economical condition of our own community, by

substituting facts for theories, arguments for harangues, and reason and judgment for prejudice and passion. There is a political economy that does not expend itself in the business of trade and production; which has to do with the raising and expending public moneys, and whose laws of good sense and common honesty may be mastered by every one who will lend it a thought.

And coming still nearer home, with the knowledge that we have, that education and moral culture are indispensable conditions in the improvement and good order of any community; we have the fact before us, that our prisons are tenanted by men who were reared in our streets; who were suffered to grow up without the christian education of home or school; living like the young fox, by the wits of instinct, watched by no eye but that of the police, and strangers to the kindly charity that takes the wayward child by the hand, and gently lead him up into a purer atmosphere and a healthier region of life. May we not, with facts like these, reach the heart and the judgment of a people without the need of extravagance or exaggeration? There is science even in the discipline of a prison and the reform of the prisoners. The idea is growing obsolete that the proper mission of these massive jails and these ponderous bars and gates of penitentiaries, is to inflict *vengeance* upon the poor wretch whose infancy was cradled in the filth of a drunkard's home, and upon whose childhood no pleasant smile nor cheering word of encouragement ever shed a ray of happiness or hope.

I have no time left to pursue these thoughts, and all I need add is, that they have their foundation in the true purposes of Social Science, as I understand it, and that it is to the Law that we are to look for aid and efficiency in accomplishing its work. It is one of its appropriate functions to regulate the tone and curb the extravagance of an excitable and an excited people. And in advocating the importance of wise laws, wisely and honestly framed, and firmly administered, Social Science is not only pleading the cause of justice, but of a common humanity. It is doing more; it is doing battle for the life as well as the honor of the country which we are proud to call our own.